



NEW YORK
REGIONAL OFFICE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
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October 10, 2023

BY ECF

Hon. Jessica S. Allen
United States Magistrate Judge
District of New Jersey
Martin Luther King Building and U.S. Courthouse
50 Walnut Street, Suite 4015
Newark, NJ 07101

Re: *SEC v. Kenneth A. Welsh*, 21-civ.-19387 (D.N.J.) (WJM/JSA)

Dear Judge Allen:

Plaintiff Securities and Exchange Commission (“SEC”) respectfully submits this status letter pursuant to the Court’s October 6, 2023 Order (Dkt. 9).

The SEC filed its Complaint against Defendant Kenneth A. Welsh (“Welsh”)—the sole defendant in this action—on October 28, 2021. (Dkt. 1.) The SEC filed its proof of service on December 21, 2021. (Dkt. 5.) The Clerk’s Office entered a docket entry of default as to Welsh on February 24, 2022. (Dkt. 6.)

On the same day the SEC filed its Complaint, the United States Attorney’s Office for the District of New Jersey filed a criminal complaint against Welsh, charging Welsh with wire fraud in violation of 18 U.S.C. §§ 1342 & 1343 and investment adviser fraud in violation of 15 U.S.C. §§ 80b-6 & 80b-17 and 18 U.S.C. § 2. *United States v. Kenneth A. Welsh*, 21-mj.-13385 (D.N.J.) (LDW) (“the Criminal Case”). The criminal complaint alleges essentially the same conduct as the SEC’s Complaint. Judge Wettre has continued the Criminal Case until November 6, 2023, and there is no trial scheduled yet].

The SEC intends to move for a default judgment as to Welsh after the Criminal Case has been resolved. The SEC and Judge Martini will be better able to assess the appropriate monetary remedies against Welsh, including disgorgement and a civil penalty, at that time. *See, e.g., SEC v. Palmisano*, 135 F.3d 860, 864 (2d Cir. 1998) (“[W]e modify the judgment to provide that to the extent that [defendant] pays or has paid restitution as ordered in the criminal judgment, such payments will offset his disgorgement obligation under the present judgment.”). The SEC respectfully proposes that it submit a status report on December 11, 2023, if the SEC has not moved for a default judgment by then.

Respectfully submitted,

/s/

Christopher J. Dunnigan
Senior Trial Counsel

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cc (by UPS): Kenneth A. Welsh